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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 MS. L, et al.,

Case No. 18cv428 DMS MDD

4 Petitioners-Plaintiffs,

**JOINT STATUS REPORT**

5 vs.

6 U.S. IMMIGRATION AND  
7 CUSTOMS ENFORCEMENT, et  
8 al.,

9 Respondents-Defendants.  
10

11  
12 The Court ordered the parties to file a joint status report on February 20, 2019,  
13 in anticipation of the status conference scheduled at 3:00pm PST on February 21,  
14 2019. The parties submit this joint status report in accordance with the Court's  
15 instruction.  
16

17  
18 **I. DEFENDANTS' POSITIONS**

19 **A. Update on Reunifications**

20 As of February 13, 2019, Defendants have discharged 2,735 of 2,816 possible  
21 children of potential class members.<sup>1</sup> See Table 1: Reunification Update. This is  
22

23  
24  
25 <sup>1</sup> As explained in the data table below and in prior status reports, Defendants have  
26 determined that some children originally counted in this number are not, in fact,  
27 children of class members. Defendants continue to report this number to allow for  
28 transparency in their data reporting, and to minimize confusion.

1 an increase of 12 discharges reported in Table 1 since the Joint Status Report (JSR)  
2 filed on February 6, 2019. All 12 children were discharged under other appropriate  
3 circumstances, such as discharges to other appropriate sponsors or discharges of  
4 minors who turned 18 years old.  
5

6 There are now five children in ORR care proceeding towards reunification or  
7 other appropriate discharge. The current status of these five children is as follows:  
8

- 9       ▪ One child has a parent who is in the United States, but who is  
10       unavailable because the parent is in other federal, state, or local custody  
11       (e.g., state criminal detention). Defendants are working to appropriately  
12       discharge the child, and to identify any possible barriers to discharge,  
13       meeting and conferring with Plaintiffs where appropriate for resolution.  
14
- 15       ▪ Four children have parents presently departed from the United States.  
16       The Steering Committee has not yet provided notice of parental intent  
17       regarding reunification (or declination of reunification). Defendants are  
18       supporting the efforts of the Steering Committee to obtain statements  
19       of intent from those parents. Once Defendants receive the notices from  
20       the Steering Committee, Defendants will either reunify the children or  
21       move them into the TVPRA sponsorship process, consistent with the  
22       intent of the parent. The Steering Committee has advised that resolution  
23       on four of the five children will be delayed due to unique circumstances.  
24  
25  
26  
27  
28

The current reunification status for the 2,816 children ages 0 through 17 who have been the focus of Defendants' reporting to date is further summarized in Table 1 below. The data in Table 1 reflects approximate numbers on these children maintained by ORR at least as of February 13, 2019. These numbers are dynamic and continue to change as more reunifications, determinations on class membership, and/or discharges occur.<sup>2</sup>

**Table 1: Reunification Update**

<u>Description</u>	<u>Phase 1 (Under 5)</u>	<u>Phase 2 (5 and above)</u>	<u>Total</u>
Total number of possible children of potential class members	107	2709	2816
<b><u>Discharged Children</u></b>			
Total children discharged from ORR care:	106	2629	2735
<ul style="list-style-type: none"> <li>Children discharged by being reunified with separated parent</li> </ul>	82	2073	2155
<ul style="list-style-type: none"> <li>Children discharged under other appropriate circumstances (these include discharges to other sponsors [such as situations where the child's separated parent is not eligible for reunification] or children that turned 18)</li> </ul>	24	556	580

<sup>2</sup> Please note that ORR's database experienced technical problems and was inaccessible from approximately February 8, 2019 until February 12, 2019. Due to this outage, it is possible that additional reunifications took place since the last JSR, but were not updated in the database in time for this report. The ORR database is now functional again, and the next JSR will include all reunifications to date.

<b><u>Children in ORR Care, Parent in Class</u></b>			
Children in care where the parent is not eligible for reunification <u>or</u> is not available for discharge at this time:	0	5	5
• Parent presently outside the U.S.	0	4	4
○ Steering Committee has advised that resolution will be delayed	0	3	3
• Parent presently inside the U.S.	0	1	1
○ Parent in other federal, state, or local custody	0	1	1
○ Parent red flag case review ongoing – safety and well being	0	0	0
<b><u>Children in ORR Care, Parent out of Class</u></b>			
Children in care where further review shows they were not separated from parents by DHS	1	13	14
Children in care where a final determination has been made they cannot be reunified because the parent is unfit or presents a danger to the child	0	18	18
Children in care with parent presently departed from the United States whose intent not to reunify has been confirmed by the ACLU	0	39	39
Children in care with parent in the United States who has indicated an intent not to reunify	0	5	5

#### Additional Information Regarding 149 Children Identified in the Previous JSR

Table 1 incorporates discharge information relating to the 149 separated children reported for the first time in the last two JSRs. *See* ECF Nos. 334 and 349. These children were in ORR care on June 26, 2018, and were all discharged by October 25, 2018. At the time of discharge:

- 64 children had potential class member parents who departed the United States. Seven of these 64 children departed the United States with their

1 separated parents. ORR discharged 57 children under other appropriate  
 2 circumstances. At the request of the Steering Committee, ORR will provide  
 3 the Steering Committee with the last known contact information for the  
 4 parents of these 57 children.  
 5

- 6 • 73 children had potential class member parents in the United States. ORR  
 7 reunified 10 of these 73 children with their separated children, and discharged  
 8 63 under other appropriate circumstances.  
 9
- 10 • 11 children had parents who were determined to be excluded from the class  
 11 due to criminality. However, one parent from this group was later reunified  
 12 with his separated child.  
 13
- 14 • 1 child was found not to have been separated from a parent.  
 15

16 On February 8, 2019, Defendants provided a spreadsheet to Plaintiffs  
 17 identifying these 149 children, and providing information available to Defendants  
 18 about the status of the children and their parents. Other than as noted above,  
 19 Defendants have not received any follow-up inquiries from Plaintiffs about this data.  
 20

## 21 **B. Update on Removed Class Members**

22 The current reunification status of removed class members is set forth in Table  
 23 2 below. The data presented in this Table 2 reflects approximate numbers maintained  
 24 by ORR as of at least February 13, 2019. These numbers are dynamic and continue  
 25 to change as the reunification process moves forward.  
 26  
 27  
 28

**Table 2: Reunification of Removed Class Members**

<b><u>REUNIFICATION PROCESS</u></b>	<b><u>REPORTING METRIC</u></b>	<b><u>NO.</u></b>	<b><u>REPORTING PARTY</u></b>
<b>STARTING POPULATION</b>	Children in ORR care with parents presently departed from the U.S.	43	Defs.
<b>PROCESS 1: Identify &amp; Resolve Safety/Parentage Concerns</b>	Children with no “red flags” for safety or parentage	43	Defs.
<b>PROCESS 2: Establish Contact with Parents in Country of Origin</b>	Children with parent contact information identified	43	Defs.
	Children with no contact issues identified by plaintiff or defendant	43	Defs. & Pls.
	Children with parent contact information provided to ACLU by Government	43	Defs.
<b>PROCESS 3: Determine Parental Intention for Minor</b>	Children for whom ACLU has communicated parental intent for minor:	40	Pls.
	• Children whose parents waived reunification	39	Pls.
	• Children whose parents chose reunification in country of origin	1	Pls.
	• Children proceeding outside the reunification plan	0	Pls.
	Children for whom ACLU has not yet communicated parental intent for minor:	3	Pls.
	• Children with voluntary departure orders awaiting execution	0	Defs.
	• Children with parental intent to waive	0	Defs.

	reunification documented by ORR		
	<ul style="list-style-type: none"> <li>Children whose parents ACLU has been in contact with for 28 or more days without intent determined</li> </ul>	0	Pls.
<b>PROCESS 4:</b>			
<b>Resolve Immigration Status of Minors to Allow Reunification</b>	Total children cleared Processes 1-3 with confirmed intent for reunification in country of origin	1	Pls.
	<ul style="list-style-type: none"> <li>Children in ORR care with orders of voluntary departure</li> </ul>	0	Defs.
	<ul style="list-style-type: none"> <li>Children in ORR care w/o orders of voluntary departure</li> </ul>	1	Defs.
	<ul style="list-style-type: none"> <li>Children in ORR care whose immigration cases were dismissed</li> </ul>	0	Defs.

Separately, Plaintiffs' have requested that the government submit to Plaintiffs and to the Court a "baseline" total number of removed parents. Counsel for Defendants has spoken with counsel for Plaintiffs in an effort to better understand what Plaintiffs are seeking in making this request, and following that discussion, Defendants are now working with their data team to compile the number that they understand Plaintiffs to be referring to in requesting a "baseline." Defendants are reviewing their records and expect to be able to calculate this number in time for the next status report. Defendants note that since the preliminary injunction was issued they have regularly updated the Steering Committee regarding the status of departed



1 parents who have children remaining in ORR care, including updates and  
 2 explanations about why their calculation of that number has continued to change  
 3 over time. Defendants sent the last such update on February 8, 2019, and plan to  
 4 send another update later this week.  
 5

6 **C. Update Regarding Government's Implementation of Settlement**  
 7 **Agreement**

8 <b>SETTLEMENT</b>	9 <b>DESCRIPTION</b>	10 <b>NUMBER</b>
11 <b>PROCESS</b>		
12 <b>Election Forms<sup>3</sup></b>	Total number of executed election forms received by the Government	13 <b>340 (217 Parents/123 Children)<sup>4</sup></b>
	<ul style="list-style-type: none"> <li>14 Number who elect to receive settlement procedures</li> </ul>	15 <b>185 (119 Parents/66 Children)</b>
	<ul style="list-style-type: none"> <li>16 Number who waive settlement procedures</li> </ul>	17 <b>155 (98 Parents/57 Children)<sup>5</sup></b>

18  
 19  
 20  
 21 <sup>3</sup> The number of election forms reported here is the number received by the Government as of February 13, 2019.

22 <sup>4</sup> The number of children's election forms is lower than the number of parent election forms because in many instances a parent electing settlement procedures submitted an election form on his or her own behalf or opposing counsel e-mailed requesting settlement implementation for the entire family, but no separate form was submitted on behalf of the child.

23  
 24  
 25  
 26 <sup>5</sup> The number of children's waivers is lower because some parents have submitted waivers only for themselves and some parents who have waived reunification also waived settlement procedures and have therefore not provided a form for the child.  
 27  
 28

<b>Interviews</b>	Total number of class members who received interviews	<b>137<sup>6</sup></b>
	<ul style="list-style-type: none"> <li>Parents who received interviews</li> </ul>	<b>71</b>
	<ul style="list-style-type: none"> <li>Children who received interviews</li> </ul>	<b>66</b>
<b>Decisions</b>	Total number of CFI/RFI decisions issued for parents by USCIS	<b>63<sup>7</sup></b>
	<ul style="list-style-type: none"> <li>Number of parents determined to establish CF or RF upon review by USCIS</li> </ul>	<b>63<sup>8</sup></b>
	<ul style="list-style-type: none"> <li>Number of parents whose CF or RF finding remains negative upon review by USCIS</li> </ul>	<b>0</b>
	Total number of CFI decisions issued for children by USCIS	<b>73<sup>9</sup></b>

<sup>6</sup> Some individuals could not be interviewed because of rare languages; these individuals were placed in Section 240 proceedings.

<sup>7</sup> This number is the aggregate of the number of parents whose negative CFI/RFI determinations were reconsidered, number of parents whose negative CFI/RFI determination was unchanged, and individuals who were referred to 240 proceedings without interview because of a rare language. This number excludes 12 cases where a parent already had an NTA from ICE or was already ordered removed by an IJ (which are included in the interview totals).

<sup>8</sup> This number includes parents who received positive CF/RF determinations upon reconsideration, parents who received a Notice to Appear based on their child's positive CF determination, and parents who were placed in Section 240 proceedings due to a rare language.

<sup>9</sup> This number is the aggregate of the number of children who received a positive CF

	<ul style="list-style-type: none"> <li>Number of children determined to establish CF by USCIS</li> </ul>	73 <sup>10</sup>
	<ul style="list-style-type: none"> <li>Number of children determined not to establish CF by USCIS</li> </ul>	0
<b>Removals</b>	Number of class members who have been returned to their country of origin as a result of waiving the settlement procedures	<b>95 Parents<sup>11</sup></b>

#### **D. Children Awaiting Placement.**

On February 12, 2019, Plaintiffs provided Defendants a list of 22 children who Plaintiffs believed were awaiting placement with a sponsor after their parent waived reunification. On February 16, 2019, Defendants provided Plaintiffs with information about each of these 22 children. In summary: 8 of those children have been released to a sponsor; 5 have possible sponsors, but necessary information has \_\_\_\_\_ determination, the number of children who received a negative CF determination, and children who were referred to 240 proceedings without interview because of a rare language.

<sup>10</sup> This number includes children who received a positive CF determination, children who received a Notice to Appear as a dependent on their parent's positive CF determination, and children who were placed in Section 240 proceedings due to a rare language.

<sup>11</sup> This number is as of February 9, 2019.

1 not been submitted by those sponsors; 1 has a possible sponsor, but necessary  
 2 information has not been received from the consulate; 7 have no sponsor available;  
 3 and 1 child was discharged from ORR custody because he turned eighteen.  
 4

5 **E. Government Processes, Procedures, and Tracking, for Separations Since**  
 6 **June 26, 2018.**

7 *1. Data Requested by Plaintiffs*

8 Defendants are providing Plaintiffs with a report containing information  
 9 regarding families separated since the Court's June 26, 2018 preliminary injunction  
 10 order. Defendants have identified 245 new separations of children and parents that  
 11 occurred between June 27, 2018 and January 31, 2019, and four cases which require  
 12 more time to assess.<sup>12</sup> Even counting these four cases as parent-child separations,  
 13 these (249) referrals account for approximately 0.78% of the 31,876 total referrals  
 14 ORR received over the same period. Further, of these 249 children, 62 are no longer  
 15 in ORR care.  
 16  
 17  
 18

19 Based on the information available to date, in the 245 identified separations  
 20 the parent was either excluded from the *Ms. L* class or was separated for a reason  
 21 consistent with the Court's preliminary injunction. In some of these cases, the parent  
 22  
 23

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24 <sup>12</sup> Defendants have excluded from this count of 245 separations a situation in which  
 25 DHS encountered a UAC mother, adult father, and their UAC infant child, and in  
 26 which the UAC mother and infant were both transferred to ORR together, while the  
 27 infant's adult father was transferred to ICE custody. Defendants coordinated with  
 28 Plaintiffs' counsel on the disposition of this case.

1 has since become eligible for reunification with their child, and reunification is  
2 proceeding under the Court's procedures, as outlined in Table 3 below.

3 Table 3 below sets forth the number of new separations identified, the bases  
4 for those separations, and the status of those children who have been discharged  
5 from ORR care. Defendants note that the count presented here is accurate as of  
6 February 20, 2019, and is based on information known to the Defendants as of that  
7 date. This information is, in some cases, different than the information that was  
8 known at the time of the actual separation. For instance, some of these 245 cases  
9 reflect a situation in which CBP separated a child from an accompanying adult  
10 because, based on the information available to CBP at the time of apprehension, and  
11 in light of the short period of time in which CBP must make a processing  
12 determination, CBP did not have information to indicate that the adult was the parent  
13 or legal guardian of the child. However, since the time of apprehension, Defendants  
14 have developed additional information that shows that the child was, in fact,  
15 separated from his or her parent or legal guardian. As outlined below in Section  
16 I.E.2, in that case DHS and ORR would work together to reunify that parent and  
17 child under the expedited *Ms. L* reunification process. In light of changes in  
18 information known to Defendants as well as factual circumstances regarding the  
19 parent and child, any count of separations reflects only a snapshot in time, and is  
20 subject to change based on changed or updated information.  
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22  
23  
24  
25  
26  
27  
28

**Table 3: New Separations**

<b>Description</b>	<b>Total</b>
Total number of possible children separated from their parents and placed in ORR custody between June 26, 2018 and February 5, 2019	249
• Separations verified by DHS and HHS	245
• Separations requiring additional review	4
Basis for Separation	
• Parent criminality, prosecution, gang affiliation, or other law enforcement purpose	225
• Parent health issues/hospitalization	17
• DHS unable to verify familial relationship	3
Total number of children discharged from ORR care (out of the 249 identified above):	62
• Children discharged by being reunified with separated parent	17
• Children discharged under other appropriate circumstances (these include discharges to other sponsors [such as situations where the child's separated parent is not eligible for reunification] or children that turned 18)	45

## *2. Processes and Procedures*

Defendants have met and conferred with counsel for class members as well as counsel for separated children, and have considered all issues raised by counsel in these discussions, as well as issues identified in the course of this litigation, in developing the outline below. The below summary memorializes the processes, procedures, tracking, and communication between the agencies that have been adopted by the agencies since June 26, 2018, in accordance with the requirements of

the Court's preliminary injunction order. It also provides an outline of the options for separated parents and children to obtain information and assess their options for reunification. Defendants are willing to meet and confer with Plaintiffs as needed regarding any remaining issues.

#### Outline of Processes and Procedures

- DHS initiates separation based on a parent's: 1) criminal history; 2) communicable disease; 3) unfitness or dangerousness (including hospitalizations); or 4) some other criteria that do not automatically exclude the parent from being treated as a *Ms. L* class member at a later point in time (i.e., referral for criminal prosecution or as a material witness).
  - Understanding that initial separations must be made based on the information that is available at the time to those agents encountering an adult and child, DHS will, if appropriate, relay the basis for separation to the adult, or to the adult's attorney, upon request. CBP will not generally provide reasons to the adult if doing so would create a risk to the child's safety or would not otherwise be in the child's best interests, and will not do so in situations in which CBP suspects fraud, smuggling, and/or trafficking.
  - DHS will communicate the basis for separation to HHS, and will, as soon as practicable, provide HHS with available and appropriate information about the reason for the separation (taking into account any restrictions on the sharing of such information). DHS and HHS have designated points of contact to assist HHS in obtaining information about the reasons for the separation. HHS will ensure that information about the separation is communicated to the field so that attorneys representing the children can obtain information about the separations from the FFS or case managers.
  - Where separation is based on 1) criminal history, 2) communicable disease, or 3) a determination of unfitness or dangerousness by DHS, HHS will accept the child and consider reunification under the processes discussed below (either expedited *Ms. L* procedures or procedures consistent with the TVPRA.).

- 1           ▪ Where separation is based on communicable disease or a  
2           determination of unfitness based on hospitalization, HHS will  
3           accept the child, and consider reunification under the processes  
4           discussed below, consistent with the TVPRA, while remaining  
5           cognizant that the parent may become available for reunification  
6           pursuant to the expedited *Ms. L* procedures during such period.  
7           If a parent completes medical treatment or the communicable  
8           disease is resolved while the parent remains in DHS custody,  
9           DHS will notify HHS as soon as practicable whether there is a  
10          continued basis for separation (either (1) criminal history, or (2)  
11          a determination of unfitness or dangerousness by DHS). HHS  
12          will notify DHS if it has determined that there is a basis for  
13          separation (including a determination of unfitness or  
14          dangerousness by HHS). If there is a continued basis for  
15          separation, the procedures discussed below will apply. If there is  
16          no continued basis for separation, and the child has not already  
17          been released consistent with the TVPRA, then DHS will work  
18          with HHS to facilitate reunification under the expedited *Ms. L*  
19          procedures.
- 20          ▪ Where the separation is based on a transfer to criminal custody  
21          for a criminal prosecution or as a material witness, but no other  
22          basis for separation has been identified, HHS will accept custody  
23          of the child during the course of that parent's criminal custody.  
24          When the parent returns to DHS custody, DHS will notify HHS  
25          as soon as practicable whether there is a continued basis for  
26          separation (i.e., (1) criminal history, (2) communicable disease,  
27          or (3) a determination of unfitness or dangerousness by DHS).  
28          HHS will notify DHS if it has determined that there is a basis for  
separation including communicable disease or a determination of  
unfitness or dangerousness by HHS. If there is a continued basis  
for separation, the procedures discussed below will apply. If  
there is no continued basis for separation, then DHS will work  
with HHS to facilitate reunification under expedited *Ms. L*  
procedures.



- 1 • For parents who are separated because of: 1) criminal history, 2)  
2 communicable disease, or 3) a determination of unfitness or dangerousness by  
3 DHS, DHS will make a detention determination for the parent.
- 4 ○ If the adult is detained, then DHS will work with HHS to facilitate  
5 communication between the parent and child for as long as both the  
6 parent and child remain in DHS and HHS custody, respectively.
- 7 ■ A parent who is separated on the basis of criminal history will be  
8 excluded from the class (the only exception to this would be if  
9 DHS receives information that the original criminal history  
10 determination was in error, in which case DHS should take steps  
11 to treat the parent as a *Ms. L.* class member and should work with  
12 HHS to facilitate reunification). HHS will work toward release  
13 of the child with a suitable sponsor consistent with the TVPRA.
- 14 • If a parent in this category requests reunification for  
15 removal, DHS and HHS will consider such requests on a  
16 case by case basis, notwithstanding the fact that the parent  
17 remains excluded from the *Ms. L.* class.
- 18 ■ A parent who is separated on the basis of having a communicable  
19 disease and who remains in DHS custody is excluded from the  
20 *Ms. L.* class and is not entitled to be reunified with their child so  
21 long as the medical condition remains in place, and HHS will  
22 work toward release of the child with a suitable sponsor  
23 consistent with the TVPRA.
- 24 • If DHS becomes aware that the parent no longer has a  
25 communicable disease, then DHS will notify and work  
26 with HHS to reassess class membership and, if  
27 appropriate, facilitate reunification for children not yet  
28 released from HHS.
- A parent who is separated on the basis of unfitness (including  
hospitalization) or dangerousness and who remains in DHS  
custody is not entitled to be reunified with their child so long as  
the factual basis for the original unfitness or dangerousness  
determination remains in place.
- If DHS becomes aware that such factual basis no longer  
exists, then DHS will notify and work with HHS to  
reassess whether reunification is appropriate and, if  
appropriate, facilitate reunification.



1 **II. MS. L. PLAINTIFFS' POSITION**

2 **1. The Creation of a Centralized Database to Track Further Separations**

3 The parties are meeting and conferring on how to addressing continuing  
 4 separations. Prior to the shutdown, Plaintiffs sent the government a set of  
 5 threshold requirements that an interagency database should meet. Plaintiffs have  
 6 asked to see a written proposal by government agencies so as to provide detailed  
 7 responses, informed by the views of stakeholders, including groups representing  
 8 immigrant children and families. As of Friday, February 15, the government stated  
 9 they are in the process of developing a written proposal; Plaintiffs have not yet  
 10 received it or had a chance to review it with stakeholders in order to provide  
 11 further input.

12 **2. Information Regarding Parents Separated from Children After June 26**

13 Plaintiffs have requested the government provide a list of parents separated  
 14 from their children after June 26 (the date of the PI Order), along with the reasons  
 15 why the family was separated in order to ensure this Court's injunction is properly  
 16 implemented and assist the reunification of families where it is not. Plaintiffs  
 17 requested this information by e-mail to government's counsel on Dec. 6, 2018,  
 18 raised the request in the February 6 JSR, and at the February 8 status hearing. The  
 19 government indicated it was putting the information together. 2/8/19 Tr. at 12.  
 20 Plaintiffs have not yet received the list.

21 **C. Steering Committee Progress**

22 The Steering Committee has successfully contacted and confirmed the  
 23 preferences of nearly all removed parents with respect to reunifications. On  
 24 February 8, the government reported that, as of February 2, 49 children with  
 25 removed parents remained in ORR custody.<sup>13</sup> The Committee has delivered

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26  
 27 <sup>13</sup> As discussed at the October 25 Status Conference, in this Joint Status Report  
 28

1 preferences for the parents of 45 of those children, and those children are awaiting  
 2 either reunification with their parents or placement with sponsors in accordance  
 3 with their parents' submitted preferences. For the remaining four children, the  
 4 parent of one is seeking to return to the United States under the Settlement  
 5 Agreement and the other three are cases where the Steering Committee has advised  
 6 the government that additional time will be required due to complex and  
 7 individualized circumstances.

8 The status of efforts based on the government's January 28 list of 49  
 9 children in ORR custody with removed parents appears in the table immediately  
 10 below.<sup>14</sup>

11	Removed parents identified by the government to the Steering	49
12	Committee as of 2/2/2019	
13	Parent's final preference has been communicated to the government	45 <sup>15</sup>
14	• Parent has elected reunification in Country of Origin	0
15	• Parent has elected to waive reunification in Country of Origin	45
16	Total number of cases that the Steering Committee has indicated to	3
17	the government should be set aside.	
18	Total number of cases where the parent seeks to return to the U.S.	1
19	under the Settlement Agreement and has thus not yet made an	
	election.	

20  
 21 Plaintiffs are reporting a set of detailed numbers based only on the government's  
 22 most recent list of children in ORR custody with removed parents.

23 <sup>14</sup> This table is shortened from the version in past status reports. We have  
 24 omitted a breakdown of the 49 removed parents that focuses on how many  
 25 separated parents have been contacted. All but two removed parents have been  
 contacted, which is unchanged from the Feb. 6 status report.

26 <sup>15</sup> As noted above, for one child, the Steering Committee has determined  
 27 that, due to its inability to reach the removed parent, reporting the preference of the  
 28 non-removed parent is appropriate.

1  
2  
3       **1.     Children Whose Parents Have Submitted Preferences Who**  
4       **Are Still Detained**

5       On February 12, the Steering Committee provided to the government  
6 information regarding 22 children who had been in ORR custody for at least five  
7 months following the submission of a final reunification election. The government  
8 provided detailed information regarding these children on February 16, which the  
9 Steering Committee appreciates. Eight of these 22 children have now been  
10 discharged to a sponsor; one child turned 18 and was transferred out of ORR care.  
11 The Steering Committee will continue to meet and confer with the Government  
12 regarding the remaining children.

13       **2.     Identifying the Population of Removed Parents**

14       At the November 30 Status Conference, the Court requested the parties to  
15 agree upon a baseline of the total number of parents who were removed following  
16 separation from their children, so as to provide the Court with a complete  
17 accounting of the reunification process. Although the Steering Committee has  
18 conferred with the government regarding how to calculate the baseline, the  
19 government has not yet provided the proposed baseline to the Steering Committee.

20       With respect to the 149 additional separated children in ORR custody,  
21 identified by the government in the December 12 Joint Status Report, the  
22 Government has provided initial information to the ACLU and Steering  
23 Committee, showing that 64 of these separated children have a parent that was  
24 removed from the United States following separation. None of these children  
25 remain in ORR custody; however the Steering Committee intends to contact these  
26 parents to ensure that their reunification preferences have been satisfied and to  
27 identify any parents whose cases counsel may raise with the government as  
28

1 warranting return to the United States to pursue asylum. The government has told  
2 the Steering Committee that it will provide contact information for these families  
3 later this week.

4  
5 **III. *MMM-Dora* Plaintiffs' Report Regarding Settlement Implementation**

6  
7 The parties continue to work together to implement the settlement agreement  
8 approved on November 15, 2018. Counsel for Plaintiffs are providing the  
9 government with signed waiver forms as they are received from class members  
10 (detained and released). The parties are meeting and conferring on settlement  
11 implementation issues as they arise. Since the last status report, the parties met  
12 and conferred on a range of issues. The parties are working together to resolve the  
13 discrepancy between the number of waiver forms submitted by class counsel and  
14 the number of forms reported by the Government. The parties are also working  
15 together to identify and resolve settlement issues for the remaining class members  
16 who are still in detention but who have not submitted waiver forms. The parties  
17 will alert the Court of any issues that require the Court's guidance.  
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1 DATED: February 20, 2019

Respectfully submitted,

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